REMARKS

Claims 1-2, 5-23, and 37-50 are pending in the application. By this paper, claims 1, 16, and 45 have been amended. No new matter is added by these amendments. Reconsideration and allowance of the application in light of the amendments and arguments herein is respectfully requested.

35 U.S.C. § 103 Rejections

Claims 1, 2, 5-9, 13-23, and 37-50 stand rejected under 35 U.S.C. § 103(a) over U.S. Patent No. 6,269,361 ("Davis") in view of U.S. Patent No. 7,225,151 ("Konia"). The cited references fail to disclose or suggest all of the claim features.

Claim 1 recites "receiving from the advertiser a bid cap and a desired rank for each of a plurality of the stored search listings," and "adjusting … the respective bid amounts for the selected search listings according to the bid cap and the desired rank." The Office Action states that Davis discloses receipt of a bid cap but says nothing about receipt of a desired rank. For at least this reason alone, the Office Action on its face fails to make a prima facie case of obviousness.

A careful reading of Davis will reveal that Davis does not disclose receipt and use of a bid cap in reordering the search listings as recited in claim 1. The "authorized amount" in columns 16 and 17 of Davis referred to in the Office Action clearly refers to whether advertisers have attempted to overfund a subaccount. That is, "[t]he function also validates the new available subaccount balances to make sure that the total does not exceed the authorized amount." Col. 16, ll. 44-46. There is no mention of search listings here or that the authorized amount is being used to reorder search listings. Again, a bid cap is not the same as an account balance, and Davis does not disclose bid cap. See Applicants' Responses dated October 17, 2007 (page 19) and July 20, 2007 (pages 10-11) for additional detail. Similarly, a bid cap is not the same as an authorized amount with relation to subaccount balances for at least the same reasons discussed in these past responses.

Claim 1 also recites "if a tie condition makes a desired rank unavailable for a respective search listing, incrementing with the computer program code a bid amount for the respective search listing." The Office Action cites to Davis, claim 19, FIG. 8 (display user entered bid changes) and element 830. FIG. 8 discloses a method by which advertisers change bids. As conceded in paragraph 10 of the Office Action, the process of adjusting bids in Davis is not automated. FIG. 8 is indicative of that in requiring an advertiser to manually input a new bid amount, and specifically request, at element 830—such as by clicking a button graphic—that the system update the result of changes. The only mention of addressing tie conditions is in claim 19, which addresses equivalent bid amounts. Claim 19, however, discloses use of creation time values for each search result list having equivalent bid amounts, and sorting the listings in order form earliest to most recent creation time value. Thus, Davis only acknowledges that "equivalent bid amounts"—i.e. tie conditions—can occur. Accordingly, claim 19 of Davis (and the rest of Davis) does not disclose "***incrementing*** with the computer program code a bid amount for the respective search listing" if a tie condition makes a desired rank unavailable. Claim 19 of Davis merely discloses a method that may be used for sorting a search result list having equivalent bid amounts.

Konia fails to fill the gap in disclosure of Davis. It does not address tie conditions or the case when bid amounts may be equivalent. Claim 1 is patentable over Davis in view of Konia, alone or as combined, for at least the above reasons. Likewise, claims 2, 5-18, and 22-23 are patentable by virtue of their dependency from claim 1.

Claim 7 recites "reducing the respective bid amounts only if the reduced bid amount exceeds a system minimum bid." The Office Action cites to Davis, column 5, lines 50-55. This passage states that "the non-paid listings are considered to have a bid amount of zero and therefore underneath the paid results." The non-paid listings referred to are organic—or non-sponsored—search results that are simply inapplicable to the search listings referred to in claim 1. In the terms of Davis, the sponsored search results come from advertisers having an advertiser account that are able to bid on the search listings. Others are assumed to bid zero. Claim 1 clearly is referring to search

listings for which advertisers bid, not non-paid listings. The cited passage, therefore, simply does not disclose "reducing the respective bid amounts only if the reduced bid amount exceeds a system minimum bid." David and Konia, alone or as combined, do not disclose "a system minimum bid" governs any part of the bidding process.

Claim 9 recites "if processing an adjusted bid amount for a selected search listing produces no rank change, leaving the bid amount unadjusted." The Office Action cites to Davis, column 6, lines 32-34, and FIG. 8 for this feature. This passage discloses that search listings changes and modifications are processed substantially in real time to support the online bidding process. It does not, however, disclose that once a bid amount is adjusted, and the adjusted bid amount produces no rank change, to leave the bid amount unadjusted. Davis refers only to positive changes, not an affirmative decision to not make a change based on the adjusted bid amount. Konia fails to fill this gap in disclosure. Claim 9 is patentable over the cited art for at least this additional reason. Claim 41 is likewise patentable for at least the same reason.

The Office Action lumps in rejection of claim 15, without specifically pointing to how the cited art discloses the claim language, with rejection of claims 1 and 19. Neither Davis nor Konia, alone or as combined, disclose or suggest "receiving a single desired rank for all search listings of an advertiser; and adjusting the respective bid amounts for all search listings according to the single desired rank and bid cap." For at least this additional reason, claim 15 is patentable over the cited art. Similarly, claim 21, which depends from claim 19, is patentable over the cited art for at least the same reason.

Claims 13 and 14 recite, respectively, "providing an error indicating if the desired rank is not within a permitted range of desired ranks," and "providing an error indicating if the desired rank is not a rank equal to one of rank 1, rank 2 and rank 3." The Office Action cites to column 14, lines 9-20 of Davis. This passage, however, makes general reference to notification, with a specific implementation being when an advertiser's rank

changes due to being outbid by another advertiser. It does not, however, make mention or suggest providing an error message if a desired rank is not within a permitted range of desired ranks or if the desired rank is not one of rank 1, rank 2, and rank 3. Konia fails to fill this gap in disclosure. For at least these additional reasons, claims 13 and 14 are patentable over the cited art.

Claim 22, which depends from claim 1, recites "if a selected search listing is a grandfathered search listing and if adjusting the respective bid amount for the grandfathered search listing produces an adjusted rank that exceeds the desired rank, leaving the bid amount unadjusted." The term "grandfathered" for a search term is introduced and referenced in the Applicants' Application at least on page 3, line 16, and on page 11, line 27. No such term or meaning for a term is disclosed in Davis or Konia, which both, alone or as combined, fail to disclose or suggest the features of claim 22. Claim 22 is patentable for at least this additional reason.

Claim 19 recites "the second program code further to determine if a tie condition makes a desired rank unavailable for a respective search listing, and if so, to increment a bid amount for the respective search listing." Davis and Konia, alone or as combined, do not disclose the recited features. Claim 19 is patentable for at least the same reasons as discussed above with reference to claim 1. Likewise, claims 20-21 are patentable by virtue of their dependency from claim 19.

Claim 37 recites "receiving with the computer from the advertiser a bid cap and a desired rank for selected search listings, the selected search listings being designated premium search listings, the desired rank being limited to one of a predetermined number of positions near the top of the search result list." The Office Action points to its rejection of claim 1, and further rejects only the last two elements of claim 37. Accordingly, the Office Action fails to make specific mention of how the additional claim features are disclosed or suggested by the cited references. For instance, no mention is made of premium search listings or that "the desired rank being limited to one of a

predetermined number of positions near the top of the search results." These features are simply not disclosed or suggested by Davis or Konia, alone or as combined. For at least this reason, the Office Action fails to make out a prima facie case of obviousness under § 103(a) of claims 37, 45, and 49.

Claim 37 also recites "if a tie condition makes a desired rank unavailable for a respective search listing, incrementing with the computer program code a bid amount for the respective search listing." Claim 37 is patentable over the cited art for at least the same reasons discussed with reference to claim 1.

Now turning to the language of which the Office Action makes specific reference, claim 37 recites "receiving with the computer from an affiliated web service provider a search query matching a selected search listing, the search query entered by a searcher accessing a web site of the affiliated web service provider," and "in response to the received search query, the computer providing to the affiliated web service provider for forwarding to the searcher a search result list including the selected search listing positioned as re-ordered in accordance with the received bid cap and the desired rank." While the Abstract of Davis cited to in the Office Action discloses displaying a search results list page to a searcher in response to a query, it does not disclose that this search result list is first sent to an affiliated web service provider for forwarding to the searcher, "re-ordered in accordance with the received bid cap and the desired rank." Konia fails to fill this gap in disclosure of Davis.

For at least these reasons, claim 37 is patentable over Davis in view of Konia. Likewise, claims 38-43 are patentable by virtue of their dependency from claim 37.

Claim 44 recites "determining if a tie condition makes a desired rank unavailable for a respective selected search listing, and if so, to increment a bid amount for the respective selected search listing." Claim 44 is patentable over the cited art for at least the same reasons discussed above with reference to in claim 1.

Claim 44 further recites:

> receiving a message containing a search query entered by a searcher accessing a web site operated by an affiliated web service provider; and

> providing a response message to the affiliated web service provider for forwarding to the searcher if the search query matches one of the selected search listings, the response message including a search result list including the one selected search listing positioned as re-ordered in accordance with the received bid cap and the desired rank.

Claim 44 is patentable over the cited art, alone or as combined, for at least the same reasons as discussed with reference to claim 37.

Claim 45 recites "some of the search listings being designated premium search listings" and

> upon receipt of a new bid amount and desired rank for a search listing ***designated as a premium search listing***, to automatically adjust the respective bid amount of the specified search listing until the rank of the specified search listing in the rank order of search listings is greater than the desired rank or until the respective bid amount of the specified search listing is less than the new bid amount.

As with claim 37, the Office Action fails to explain how the cited references disclose or suggest "designated premium search listings." Furthermore, it does not specify how the cited art discloses that the respective bid amount of the specified search listing is automatically adjusted "until the rank of the specified search listing in the rank order of search listings ***is greater than the desired rank or until the respective bid amount of the specified search listing is less than the new bid amount***." For at least these reasons, the Office Action fails to provide a prima facie case of obviousness under § 103(a) of claim 45.

Claim 45 likewise recites "if a tie condition in the rank order makes a desired rank unavailable for a specified search listing, incrementing a bid amount for the specified search listing." Accordingly, claim 45 is patentable for at least the same reasons discussed with reference to claim 1.

Claim 45 further recites

> the search engine web server configured to receive from web sites of affiliated web service providers a forwarded search query entered by an affiliate web site searcher who accesses web pages of the affiliated web service providers and to produce search results in response to the forwarded search query, the produced search results ***including one or***

> ***more premium search listings*** for display to the affiliate web site searcher ranked near the top of the produced search results in accordance with the desired rank

Accordingly, claim 45 is patentable over the cited art for at least the same reasons as discussed with reference to claim 37, which cites to an affiliated web service provider as an intermediary for a searcher's query and for resultant search results. For at least the above reasons, claim 45 is patentable over Davis and Konia, alone or as combined. Likewise, claims 46-50 are patentable by virtue of their dependency from claim 45.

Claim 48 recites "wherein the account management server is further configured to identify exceptions conditions after adjusting the respective bid amount of the specified search listing and, if an exception condition is identified, to return the specified search listing to the search engine database unchanged." The Office Action cites to Davis, column 6, lines 32-34 for disclosure of these features. Neither the Office Action nor Davis, however, disclose or explain the use of exception conditions after adjustment of a bid amount "to return the specified search listing to the search engine database unchanged." The cited passage of Davis merely discloses the addition, deletion, or modification of a search listing by a promoter after logging in, which "is to initiate the competitive bidding process." There is simply no detail here that could fairly be said to disclose or suggest the features of claim 48, which is patentable for at least this additional reason.

Claim 10-12 and 41-43 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Davis and Konia, further in view of U.S. Patent No. 6,560,580 ("Fraser"). Fraser fails to fill the gap in disclosure by Davis and Konia, and therefore, claims 10-12 and 41-43 are patentable by virtue of their dependency from claims 1 and 37, respectively. For instance, Fraser does not disclose how a tie condition is handled, e.g., by incrementing a bid amount (claims 1, 37) or leaving the bid amount unadjusted if adjusting the respective bid amounts produces an adjusted rank that is below the requested rank because of the tie condition (claims 12, 43). For at least these reasons,

claims 10-12 and 41-43 are patentable over Davis, Konia, and Fraser, alone or as combined.

Conclusion

Only claims 1, 16, and 45 have been amended. Based on the above remarks, all pending claims are submitted to be patentable over the cited art, and thus in condition for allowance. If a telephone interview can expedite issuance of a notice of allowance, e.g., to clarify the claims or the perceived scope of the cited art, the Examiner is invited to contact the undersigned.

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